

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIA CORDERO,

Plaintiff,

-v-

No. 19 CV 315-LTS-BCM

NANCY A. BERRYHILL, Commissioner of
Social Security,

Defendant.

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ORDER ADOPTING REPORT & RECOMMENDATION

The Court has reviewed Magistrate Judge Barbara Moses's Report and Recommendation, dated January 22, 2020 (docket entry no. 17, the "Report"), in this action for judicial review of a final determination of the Commissioner of Social Security (the "Commissioner") denying her application for Disability Insurance Benefits ("DIB"), pursuant to 42 U.S.C. § 405(g). The Report recommends that the Court deny Plaintiff's motion for summary judgment and grant the Commissioner's motion for judgment on the pleadings. (See docket entry nos. 12, 14, respectively). The relevant facts are set forth in the Report, the underlying decision of the Administrative Law Judge ("ALJ"), and the administrative record. (Docket entry no. 10.) On February 5, 2020, the Plaintiff filed three objections to the report. (See docket entry no. 18.) On February 14, 2020, the Commissioner filed a response to Plaintiff's objections. (Docket entry no. 19.)

The Court has reviewed the parties' submissions carefully and adopts Judge Moses's Report in its entirety.

When reviewing a report and recommendation, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A. § 636(b)(1)(C) (Westlaw through P.L. 116-193). The Court must make a de novo determination insofar as a party makes specific objections to a magistrate's findings. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). If, however, the objecting party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error. Pearson-Fraser v. Bell Atl., No. 01 CV 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003). Moreover, a party may not raise new arguments in an objection to a report and recommendation absent a “compelling justification for failure to present such evidence to the magistrate judge.” Berbick v. Precinct 42, 977 F. Supp. 2d 268, 273 (S.D.N.Y. 2013).

In her objections, Plaintiff argues that the Report incorrectly found that the decisions made by the Commissioner and the ALJ in denying Plaintiff’s application for DIB should be affirmed. Specifically, Plaintiff disputes the ALJ’s determination regarding her residual functional capacity (RFC); the ALJ’s decision to accord little weight to the opinion of treating physician Dr. Bryan Elzholz, M.D.; and the ALJ’s assessment of Plaintiff’s subjective symptoms. However, because Plaintiff’s objections merely reiterate arguments that were already presented to Judge Moses and focus on her disagreements with the ALJ’s evaluation of the record, which is supported by substantial evidence and free of legal error, the Court reviews the Report for clear error and finds none in Judge Moses’s analysis and conclusions.

The Court therefore adopts the Report in its entirety for the reasons stated therein. Accordingly, Plaintiff’s motion for summary judgment is denied, and Defendant’s motion for judgment on the pleadings is granted.

This Order resolves docket entry nos. 12 and 14. The Clerk of Court is respectfully requested to enter judgment accordingly and close this case.

SO ORDERED.

Dated: New York, New York
December 3, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge